

REMARKS

Applicants presented arguments on August 29, 2003 distinguishing the present innovations from the cited references, including Gastmeier (4,349,082). In response to the Amendment of August 29, 2003, an Office Action was issued November 28, 2003. In this Office Action, claims 1-3 remain rejected as being anticipated by Gastmeier '082. Claim 4 is rejected under a combination of Gastmeier '082 and Massa '504, and claim 5 stands rejected as being unpatentable over Gastmeier '082.

In responding to the August 29, 2003 Amendment (received September 3, 2003), it was stated by the Examiner that the limitation "constructed integrally therewith" did not require the components to be moulded.

The Examiner agreed with Applicants that the thin, perforated membrane is moulded to the gasket according to Applicants' specification. However, the Examiner held the position that this limitation was not particularly included within the claim.

In response, Applicants undertook a telephone interview with the Examiner. Among the observations were the Applicants willingness to add the term "moulded" into the amended claim 1, in order to more particularly recite and comply with the Examiner's observations.

The Examiner, after consulting with the Examiner's supervisor, indicated that such a change would require additional search and consideration, and in the Examiner's supervisor's opinion, would therefore not be entered. Applicants' representative indicated their belief that when searching the concept of "integrally", the Examiner would have searched areas related and teaching the moulding of such components together. The Examiner stated that he did not search such areas. It was, however, Applicants understanding that the Examiner did believe that such a change would overcome the existing art, as the Examiner stated he would need to do additional searching related to art using moulding concepts.

In consideration of the above, it is Applicants understanding that as of this Amendment, the cited art by the Examiner does not teach or suggest what is not claimed. For example, as previously noted in the specification, a problem with prior art designs was that in order to obtain repeatable acoustic responses using a fabric, foam or other acoustically resistive material, the manufacturing process needed to be tightly controlled. This added to the expense of microphones and ultimately the appliance in

which the microphones were used. However, in the present claims, the gasket is provided with an integrated acoustically resistive element in the form of a thin, perforated membrane that is moulded into the gasket at a desired location. Such a system overcomes the drawbacks of existing prior art devices.

Additionally, with regard to dependent claims 4 and 5, the Examiner has made general observations as to the construction of the cited art. However, it is Applicants' position that with attention to claim 4, neither Gastmeier nor Massa disclose the length selection of this claim. Massa discloses a diameter to length (D-L) ratio of $\frac{1}{4}$ in. to 4 in. (col. 3, lines 14-17). However, claim 4 of the present application discloses a length of approximately 15 mm, which results in a significant electrostatic discharge protection not obtainable by the existing cited art.

With attention to rejected dependent claim 5, neither Gastmeier nor Bushche et al., taken alone or together, disclose the claimed configuration of this claim. Bushche et al. discloses a membrane the size of an old-style phone set ear piece with six round holes. Gastmeier discloses square holes of the dimensions 0.05 mm and in great abundance (col. 2, lines 58-59). Claim 5 of the present application discloses a membrane approximately 2.5 mm in diameter, 0.5 mm thick with 9 square holes of 0.25 mm (page 3, lines 30-31). There is a clear distinction, therefore, between the recited structure of claim 5 and the dimensions offered in both Gastmeier and Bushche et al. Thus, the design configuration recited in claim 5 provides for improved acoustical impedance characteristics not considered by the cited and applied references.

Thus, if the Examiner maintains the rejection of claims 4 and 5 based on these references, Applicants submit that specific recitation of the component sizes be recited or shown, rather than a general rejection based on obviousness. Particularly, the cited reference in regard to claim 4 does not show a system which provides for a 4000 Hz cutoff frequency, and if the rejection of claim 5 is to be maintained, it is Applicants' position that the specific structure needs to be shown in a reference.

CONCLUSION

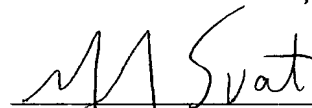
For the reasons detailed above, it is submitted claims 1-5 remaining in the application are now in condition for allowance. An early notice to the effect is therefore earnestly solicited.

Respectfully submitted,

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MINNICH & McKEE, LLP

February 26, 2004

Date



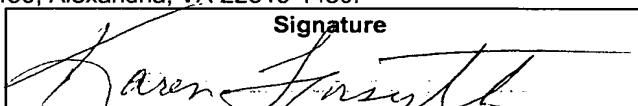
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